

**ASSEMBLY BILL**

**No. 30**

**Introduced by Assembly Member Negrete McLeod**

December 6, 2004

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An act to amend Sections 20069, 20282, 20303, 20305, 20822, 20894, 20896, 21023, 21024, 21027, 21029, 21117, and 31649 of, and to add Sections 20772.5, 20823, 20935, 20992, and 21029.5 to, the Government Code, and to amend Sections 215, 228, and 256 of the Military and Veterans Code, relating to public employees' retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 30, as introduced, Negrete McLeod. Retirement: military service.

(1) Existing law provides that specified state military personnel become state members of the Public Employees' Retirement System when they are placed on full-time active duty. Existing law generally excludes part-time employees from membership in the retirement system, subject to certain exceptions. Existing law authorizes state and school members of the retirement system to receive up to 4 years of service credit for prior military service, if those members pay certain additional contributions to the retirement system. Member contributions to the retirement system are deposited in the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would provide that officers, warrant officers, and enlisted personnel of specified state military organizations shall become state members of the retirement system, and be referred to as military members, upon completing at least one year of satisfactory service, whether part-time or full-time, as determined by the Military Department and would authorize those persons to be members of the

system even though they are serving on a part-time basis. The bill would provide that employer contributions to the retirement fund for these members would be subject to appropriation in the annual Budget Act and would be paid by the member if no appropriation is made for that purpose. The bill would also authorize those members to receive service credit for their prior satisfactory service, whether full-time or part-time, in those state military organizations, if those members pay certain additional contributions to the retirement system.

By increasing member contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(2) Existing law prohibits a member of the Public Employees' Retirement System from receiving credit for the same service in 2 public retirement systems.

This bill would make that prohibition inapplicable to military members, as specified.

(3) Existing law prohibits a member of the Public Employees' Retirement System who receives military retirement pay based on 20 or more years of active duty in the armed forces from also receiving service credit under the system for that military service. However, that prohibition does not apply to credit toward military retirement pay that is earned for active and nonactive reserve duty and that is payable only upon attainment of a specified age.

Under this bill, that prohibition also would not apply to credit toward military retirement pay that is payable only upon attainment of a specified age and that is earned through full-time National Guard duty.

(4) Existing law authorizes members of the Public Employees' Retirement System to receive service credit for prior military service if the member pays certain additional contributions to the Public Employees' Retirement Fund and other conditions are met. The maximum amount of service credit that a member may receive for that prior service is 4 years. Existing law also authorizes a state member of the retirement system to receive service credit for time, up to 5 years, during which the member was a prisoner of war, was hospitalized following his or her release from captivity, or was in the armed forces following a disabling wound, injury, or disease attributable to combat. The state member may receive that service credit only if he or she pays certain additional contributions to the Public Employees' Retirement Fund and other conditions are met. However, a member may not receive that service credit if he or she is receiving military

retirement pay or disability retirement pay from one of the armed forces, as specified.

This bill would eliminate that 4-year limitation on the amount of service credit a member may receive for prior military service. The bill would also permit a state member to receive service credit for any time during which the member was a prisoner of war, was hospitalized following his or her release from captivity, or was in the armed forces following a disabling wound, injury, or disease attributable to combat, whether or not he or she is receiving military retirement pay or disability retirement pay from one of the armed forces. By increasing contributions to the Public Employees' Retirement Fund, the bill would make an appropriation.

(5) Existing law, upon approval by the county board of supervisors, authorizes a member of a retirement system established under the County Employees Retirement Law of 1937 to receive service credit for time during which he or she was absent from county service and serving in the armed forces if, among other things, the military service is not the basis for present or future military retirement pay.

This bill would authorize that member to receive that service credit whether his or her military service is the basis for present or future military retirement pay.

(6) Existing law provides that members of the California National Guard, California Air National Guard, and California National Guard Reserve receive credit for time served on full-time active duty in the armed forces of the United States or any reserve component as if that service had been rendered in the state forces. That credit applies to, among other things, computing length of state service for military retirement with pay.

Under this bill, those members would also receive credit for satisfactory time served on part-time duty, as determined by the Military Department.

(7) Existing law authorizes specified officers and enlisted members on active duty with the Adjutant General who are not members of the Public Employees' Retirement System to receive military retirement with pay, as specified, based on a computation of state service. However, inactive service in a reserve component of the armed forces of the United States is excluded from that computation.

This bill would eliminate that exclusion.

(8) The bill would make related legislative findings and declarations.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

3 (a) The California National Guard, the State Military Reserve,  
4 and the Naval Militia are military organizations in California that  
5 serve essential public safety purposes and routinely support local  
6 authorities in protecting the lives and property of the people of  
7 the state during periods of natural disaster and civil disturbance,  
8 and provide homeland security.

9 (b) The California National Guard has full-time civil support  
10 teams whose primary purpose is to engage in public safety  
11 actions by responding to actual or suspected incidents of  
12 terrorism in the state. The civil support teams work closely with  
13 law enforcement, fire, medical, and other emergency first  
14 responders to assist and advise incident commanders and also to  
15 train and conduct exercises in the local communities to support  
16 public safety by ensuring adequate and efficient responses to  
17 emergencies. The civil support teams provide state-of-the-art  
18 public safety equipment and highly specialized resources and are  
19 the lead element in the California National Guard's response  
20 cycle for all hazardous incidents and emergencies.

21 (c) It is the intent of the Legislature to further the public  
22 purposes service by the California National Guard, the State  
23 Military Reserve, and the Naval Militia by providing members of  
24 those organizations with pension benefits provided to other state  
25 safety employees.

26 SEC. 2. Section 20069 of the Government Code is amended  
27 to read:

28 20069. (a) "State service" means service rendered as an  
29 employee or officer (employed, appointed or elected) of the state,  
30 the university, a school employer, or a contracting agency, for  
31 compensation, and only while he or she is receiving  
32 compensation from that employer therefor, except as provided in  
33 Article 4 (commencing with Section 20990) of Chapter 11.

34 (b) "State service," solely for purposes of qualification for  
35 benefits and retirement allowances under this system, shall also

1 include service rendered as an officer or employee of a county if  
2 the salary for the service constitutes compensation earnable by a  
3 member of this system under Section 20638.

4 *(c) "State service," solely for purposes of qualification for*  
5 *benefits and retirement allowances under this system, shall also*  
6 *include compensated service rendered by a military member*  
7 *described in subdivision (b) of Section 20282.*

8 SEC. 3. Section 20282 of the Government Code is amended  
9 to read:

10 20282. *(a) All officers, warrant officers, and enlisted men*  
11 *who after October 1, 1961, personnel of the California National*  
12 *Guard, the State Military Reserve, and the Naval Militia who are*  
13 *placed on full-time active duty with the office of the Adjutant*  
14 *General, pursuant to Sections 142, 167, 321, 340, and 551 of the*  
15 *Military and Veterans Code, shall become members in the same*  
16 *manner and under the same conditions as under this article apply*  
17 *to other state employees. The retirement benefit provisions of the*  
18 *Military and Veterans Code shall do not apply to those persons.*  
19 *This section shall does not apply to the Adjutant General or the*  
20 *Assistant Adjutant General.*

21 *(b) All officers, warrant officers, and enlisted personnel of the*  
22 *California National Guard, the State Military Reserve, and the*  
23 *Naval Militia who complete at least one year of satisfactory*  
24 *service, whether part-time or full-time, shall become members of*  
25 *the system.*

26 *(c) The Military Department shall determine what constitutes*  
27 *"satisfactory service" and "full-time" and "part-time" service*  
28 *for the purposes of this section and shall certify to the board and,*  
29 *upon request, to members of those military organizations that a*  
30 *member has performed the minimum amount of satisfactory*  
31 *service and is eligible for membership in the system. The Military*  
32 *Department shall also report to the board any employment and*  
33 *other information requested by the board for purposes of this*  
34 *section. Persons who become members of the system pursuant to*  
35 *this subdivision are referred to as military members.*

36 SEC. 4. Section 20303 of the Government Code is amended  
37 to read:

38 20303. (a) Persons who are members of any other retirement  
39 or pension system supported wholly or in part by funds of the  
40 United States government, any state government, or any political

1 subdivision thereof and who are receiving credit in the other  
2 system for service are, as to that service, excluded from this  
3 system.

4 (b) *This section does not apply to credit for state service, as*  
5 *defined in subdivision (c) of Section 20069.*

6 (c) (1) For the purpose of this section only, persons who are  
7 receiving pensions, retirement allowances, or other payments,  
8 from any source whatever, on account of service rendered to an  
9 employer other than the state and while they were not in state  
10 service, are not, because of that receipt, members of any other  
11 retirement or pension system.

12 (2) For the purposes of this section only, persons who  
13 participate in a deferred compensation plan established pursuant  
14 to Chapter 4 (commencing with Section 19993) or Chapter 8.6  
15 (commencing with Section 19999.3) of Part 2.6 or pursuant to  
16 Article 1.1 (commencing with Section 53212) of Chapter 2 of  
17 Part 1 of Division 2 of Title 5, are not, because of that  
18 participation, members of any other retirement or pension  
19 system.

20 (3) For the purposes of this section only, persons who  
21 participate in a money purchase pension plan and trust that meets  
22 the requirements of Section 401(a) of Title 26 of the United  
23 States Code are not, because of that participation, members of  
24 any other retirement or pension system, so long as the contracting  
25 agency has received a ruling from the Internal Revenue Service  
26 stating that the money purchase pension plan and trust qualifies  
27 under Section 401(a) and furnishes proof thereof upon request by  
28 the board.

29 (4) For the purposes of this section only, persons who  
30 participate in a supplemental defined benefit plan maintained by  
31 their employer that meets the requirements of Section 401(a) of  
32 Title 26 of the United States Code are not, because of that  
33 participation, members of another retirement or pension system,  
34 provided that all of the following conditions exist:

35 (A) The defined benefit plan provided under this part has been  
36 designated as the employer's primary plan for the person.

37 (B) The supplemental defined benefit plan has received a  
38 ruling from the Internal Revenue Service stating that the plan  
39 qualifies under Section 401(a) of Title 26 of the United States

1 Code, and has furnished proof thereof to the employer and, upon  
2 request, to the board.

3 (C) The person's participation in the supplemental defined  
4 benefit plan does not, in any way, interfere with the person's  
5 rights to membership in the defined benefit plan, or any benefit  
6 provided, under this part.

7 SEC. 5. Section 20305 of the Government Code is amended  
8 to read:

9 20305. (a) An employee serving on a less than full-time basis  
10 is excluded from this system unless:

11 (1) He or she is a member at the time he or she renders less  
12 than full-time service and is not otherwise excluded pursuant to  
13 this article or by a provision of a contract.

14 (2) His or her position requires regular, part-time service for  
15 one year or longer for at least an average of 20 hours a week, or  
16 requires service that is equivalent to at least an average of 20  
17 hours a week, unless he or she elects membership pursuant to  
18 Section 20325.

19 (3) His or her employment is, in the opinion of the board, on a  
20 seasonal, limited-term, on-call, emergency, intermittent,  
21 substitute, or other irregular basis, and is compensated and meets  
22 one of the following conditions:

23 (A) The appointment or employment contract fixes a term of  
24 full-time, continuous employment in excess of six months or, if a  
25 term is not fixed, full-time employment continues for longer than  
26 six months, in which case membership shall be effective not later  
27 than the first day of the first pay period of the seventh month of  
28 employment.

29 (B) The person works more than 125 days, if employed on a  
30 per diem basis or, if employed on other than a per diem basis,  
31 1,000 hours within the fiscal year, in which case, membership  
32 shall be effective not later than the first day of the first pay period  
33 of the month following the month in which 125 days or 1,000  
34 hours of service were completed. For purposes of this  
35 subdivision, "day" means each eight-hour period of employment  
36 worked by an employee paid on a per diem basis so that  
37 membership is effective after he or she has completed 1,000  
38 hours of compensated service in a fiscal year.

39 (C) The person is employed by the Department of Forestry and  
40 Fire Protection in one of the positions that provide state safety

1 membership pursuant to Section 20400 or state peace  
2 officer/firefighter membership pursuant to Section 20392.

3 (4) He or she is a temporary faculty member of the California  
4 State University and meets one of the following conditions:

5 (A) He or she works two consecutive semesters or three  
6 consecutive quarters at half-time or more, and is not otherwise  
7 excluded pursuant to this article, in which case, membership shall  
8 be effective with the start of the next consecutive semester or  
9 quarter if the appointment requires service of half-time or more.

10 (B) He or she works two consecutive semesters or three  
11 consecutive quarters at a minimum teaching load of six weighted  
12 units, and is not otherwise excluded pursuant to this article, in  
13 which case membership shall be effective at the start of the next  
14 consecutive semester or quarter, but not earlier than July 1, 2004,  
15 if the appointment requires service of six weighted units or more.  
16 This subparagraph does not apply to faculty members unless  
17 provided for in a memorandum of understanding agreed upon, on  
18 or after January 1, 2003, pursuant to Chapter 12 (commencing  
19 with Section 3560) of Division 4 of Title 1, or authorized by the  
20 Trustees of the California State University for employees  
21 excluded from collective bargaining.

22 (5) He or she is a member of the Board of Prison Terms, the  
23 State Personnel Board, or the State Air Resources Board and  
24 elects to become a member pursuant to Section 20320.

25 (6) He or she is participating in partial service retirement,  
26 pursuant to Article 1.7 (commencing with Section 19996.30) of  
27 Chapter 7 of Part 2.6.

28 (7) He or she is *an officer, warrant officer, or enlisted member*  
29 *of the California National Guard, the State Military Reserve, or*  
30 *the Naval Militia and he or she has completed at least one year*  
31 *of satisfactory service as provided in Section 20282.*

32 (8) *He or she is included by specific provision of the board*  
33 *relating to the exclusion of less than full-time employees.*

34 (b) This section shall supersede any contract provision  
35 excluding persons in any temporary or seasonal employment  
36 basis and shall apply only to persons entering employment on  
37 and after January 1, 1975. Except as provided in Section 20502,  
38 no contract or contract amendment entered into after January 1,  
39 1981, shall contain any provision excluding persons on an  
40 irregular employment basis.

1 SEC. 6. Section 20772.5 is added to the Government Code, to  
2 read:

3 20772.5. (a) A military member shall contribute to the  
4 retirement fund at the rate certified by the board and applied to  
5 the compensation earnable by him or her during the period or  
6 periods of the contribution. In addition to the normal rate of  
7 contribution provided in Section 20677, a military member shall  
8 also pay the employer contribution, at the rate established in  
9 Section 20814, attributable to that member's service until such  
10 time as that employer contribution is paid by the state pursuant to  
11 an appropriation in the annual Budget Act, as provided in Section  
12 20823.

13 (b) The Military Department shall notify the member of his or  
14 her total rate of contribution and the amount of the monthly  
15 contribution payable by him or her to the retirement fund, and  
16 shall furnish to the board a list of the members subject to this  
17 section and the rate of compensation earnable by each. Within 15  
18 days after receipt of the notice from the department, the member  
19 shall transmit his or her contribution in respect to the service  
20 described in the notice to the office of the system in Sacramento.  
21 If the member fails to pay the contribution within 30 days after  
22 receipt of the notice, the amount of contribution due shall accrue  
23 interest, at the rate provided in Section 20059, until paid by the  
24 member. A member may not be credited with any service under  
25 this part until the contribution with respect to that service, plus  
26 accrued interest, if any, is paid in full.

27 SEC. 7. Section 20822 of the Government Code is amended  
28 to read:

29 20822. (a) From the General Fund in the State Treasury there  
30 is appropriated quarterly, to the retirement fund, the state's  
31 contribution for all of the following:

32 (1) All state miscellaneous members and all other categories  
33 of members whose compensation is paid from the General Fund,  
34 *except as provided in Section 20823*.

35 (2) All university members whose compensation is paid from  
36 funds of, or funds appropriated to, the university.

37 (3) All state miscellaneous members who are employed by the  
38 State Department of Education or the Department of  
39 Rehabilitation and whose compensation is paid from the  
40 Vocational Education Federal Fund, the Vocational

1 Rehabilitation Federal Fund, or any other fund received, in whole  
2 or in part, as a donation to the state under restrictions preventing  
3 its use for state contributions to the retirement system.

4 (4) All state miscellaneous members and all other categories  
5 of members whose compensation is paid from the Senate  
6 Operating Fund or the Assembly Operating Fund or the  
7 Operating Funds of the Assembly and Senate.

8 (b) No appropriation shall be required pursuant to this section  
9 with respect to any state member who, pursuant to Section  
10 20281.5, is not accruing service credit during the first 24 months  
11 of service, unless and until that service credit is credited to the  
12 member.

13 SEC. 8. Section 20823 is added to the Government Code, to  
14 read:

15 20823. The state's contribution for military members shall be  
16 paid to the retirement fund only if funds are appropriated for that  
17 purpose in the annual Budget Act.

18 SEC. 9. Section 20894 of the Government Code is amended  
19 to read:

20 20894. (a) A person shall not receive credit for the same  
21 service in two retirement systems supported wholly or in part by  
22 public funds under any circumstance.

23 (b) *This section does not apply to credit for state service, as*  
24 *defined in subdivision (c) of Section 20069.*

25 (c) Nothing in this section ~~shall preclude~~ *precludes* concurrent  
26 participation and credit for service in a public retirement system  
27 and in a deferred compensation plan established pursuant to  
28 Chapter 4 (commencing with Section 19993) or Chapter 8.6  
29 (commencing with Section 19999.3) of Part 2.6 or pursuant to  
30 Article 1.1 (commencing with Section 53212) of Chapter 2 of  
31 Part 1 of Division 2 of Title 5, a tax-deferred retirement plan that  
32 meets the requirements of Section 401(k) of Title 26 of the United  
33 States Code, or a money purchase pension plan and trust that  
34 meets the requirements of Section 401(a) of Title 26 of the  
35 United States Code.

36 ~~(e)~~

37 (d) Nothing in this section ~~shall preclude~~ *precludes* concurrent  
38 participation and credit for service in the defined benefit plan  
39 provided under this part and in a supplemental defined benefit  
40 plan maintained by the employer that meets the requirements of

1 Section 401(a) of Title 26 of the United States Code, provided all  
2 of the following conditions exist:

3 (1) The defined benefit plan provided under this part has been  
4 designated as the employer's primary plan for the person.

5 (2) The supplemental defined benefit plan has received a  
6 ruling from the Internal Revenue Service stating that the plan  
7 qualifies under Section 401(a) of Title 26 of the United States  
8 Code, and has furnished proof thereof to the employer and, upon  
9 request, to the board.

10 (3) The person's participation in the supplemental defined  
11 benefit plan does not, in any way, interfere with the person's  
12 rights to membership in the defined benefit plan, or any benefit  
13 provided, under this part.

14 SEC. 10. Section 20896 of the Government Code is amended  
15 to read:

16 20896. A member who is receiving military retirement pay  
17 based on 20 or more years of active duty with the armed forces  
18 shall be deemed to have received credit in a publicly supported  
19 retirement system for all service performed with the armed  
20 forces. Credit toward military retirement pay that is earned, *in*  
21 *whole or in part, through full-time National Guard duty or* by a  
22 combination of active duty and nonactive duty with a reserve  
23 component of the armed forces and where the retirement pay is  
24 payable only upon the attainment of a specified age shall not be  
25 deemed credit in a publicly supported retirement system.

26 SEC. 11. Section 20935 is added to the Government Code, to  
27 read:

28 20935. This article does not apply to military members  
29 described in subdivision (b) of Section 20282.

30 SEC. 12. Section 20992 is added to the Government Code, to  
31 read:

32 20992. This article does not apply to military members  
33 described in subdivision (b) of Section 20282.

34 SEC. 13. Section 21023 of the Government Code is amended  
35 to read:

36 21023. (a) "Public service" with respect to a state member,  
37 other than a university member, also means the following:

38 (1) Time during which the member was a prisoner of war  
39 involving the United States, plus the time, if any, during which a  
40 member was hospitalized following his or her release from

1 captivity for a disabling wound, injury, or disease directly  
2 attributable to that captivity but not to include hospitalization  
3 after the member's honorable and permanent medical separation  
4 from the armed forces.

5 (2) Time between the onset of the member's disabling wound,  
6 injury, or disease, directly attributable to service in combat with  
7 the armed forces during a war involving the United States, and  
8 the date of the member's honorable and permanent medical  
9 separation from the armed forces due to the disabling condition,  
10 if the member has a permanent disability rating in excess of 50  
11 percent, that percentage having been determined under applicable  
12 federal law.

13 (b) For the purposes of this section, a war involving the United  
14 States exists in any of the following circumstances:

15 (1) Whenever Congress has declared war and peace has not  
16 been formally restored.

17 (2) Whenever the United States is engaged in active military  
18 operations against any foreign power, whether or not a war has  
19 been formally declared.

20 (3) Whenever the United States is assisting the United  
21 Nations, in actions involving the use of the armed forces, to  
22 maintain or restore international peace and security.

23 (c) A member electing to receive credit for public service  
24 under this section shall pay the contributions and interest  
25 required pursuant to Section 21033.

26 (d) This section shall apply to a member only if the member  
27 elects to receive credit while he or she is a state member, other  
28 than a university member, and he or she is credited with at least  
29 10 years of service as a state member, other than a university  
30 member, on the date of the election.

31 ~~(e) The maximum public service credit that may be received~~  
32 ~~pursuant to this section is five years.~~

33 ~~(f) This section shall not apply to any member receiving~~  
34 ~~military retirement pay as described in Section 20896 or~~  
35 ~~disability retirement pay as described in Section 20897.~~

36 ~~(g) Except as provided in subdivision (f), this~~ This section  
37 shall apply to a state member, other than a university member,  
38 who leaves or has left employment with the state, subsequently  
39 meets or has subsequently met the conditions specified in  
40 subdivisions (a) and (b), and thereafter returns or thereafter has

1 returned to service as a state member, other than a university  
2 member, is not entitled to receive the service credit pursuant to  
3 Section 20991 or 20997.

4 SEC. 14. Section 21024 of the Government Code is amended  
5 to read:

6 21024. (a) "Public service" with respect to a local member,  
7 other than a school member, also means active service with the  
8 Armed Forces or the Merchant Marine of the United States,  
9 including time during any period of rehabilitation afforded by the  
10 United States government other than a period of rehabilitation for  
11 purely educational purposes, and for six months thereafter prior  
12 to the member's first employment by the employer under this  
13 section in which he or she was a member.

14 (b) Any member electing to receive credit for that public  
15 service shall make the contributions as specified in Sections  
16 21050 and 21052. ~~However, any eligible member who requests~~  
17 ~~costing of service credit between January 1, 2001, and December~~  
18 ~~31, 2003, may, instead of making those contributions, make the~~  
19 ~~payment calculated under this article as it read on December 31,~~  
20 ~~2000, which payment shall be made in the manner described in~~  
21 ~~Section 21050.~~

22 (c) The public service under this section shall not include  
23 military service ~~(1)~~ in any period for which credit is otherwise  
24 given under this article or Article 4 (commencing with Section  
25 20990) ~~or (2) to the extent that total credit under this section~~  
26 ~~would exceed four years.~~

27 ~~(d) Notwithstanding Section 21034, a member may select~~  
28 ~~which of two or more periods of service entitles him or her to~~  
29 ~~receive public service under this section.~~

30 ~~(e)~~ This section shall apply to a member only if he or she  
31 elects to receive credit while he or she is in state service in the  
32 employment of one employer on or after the date of the  
33 employer's election to be subject to this section.

34 ~~(f)~~  
35 ~~(e)~~ This section ~~shall~~ *does* not apply to any contracting agency  
36 nor to the employees of any contracting agency until the agency  
37 elects to be subject to this section by amendment to its contract  
38 made in the manner prescribed for approval of contracts or in the  
39 case of contracts made after this section takes effect, by express  
40 provision in the contract making the contracting agency subject

1 to this section. The amendments to this section made during the  
2 second year of the 1999–2000 Regular Session shall apply to  
3 contracts subject to this section on January 1, 2001. *The*  
4 *amendments to this section made during the first year of the*  
5 *2005–06 Regular Session shall apply to contracts subject to this*  
6 *section on January 1, 2006.*

7 SEC. 15. Section 21027 of the Government Code is amended  
8 to read:

9 21027. (a) “Public service” with respect to a local member  
10 who retired pursuant to this part before the effective date of the  
11 election of his or her employer to be subject to Section 21024  
12 also means active service with the Armed Forces or the Merchant  
13 Marine of the United States, including time during any period of  
14 rehabilitation afforded by the United States government other  
15 than a period of rehabilitation for purely educational purposes,  
16 and for six months thereafter prior to the person’s first  
17 employment by the employer under this section in which he or  
18 she was a member.

19 (b) Any retired person electing to receive credit for that public  
20 service shall make the contributions as specified in Sections  
21 21050 and 21052. ~~However, any eligible member who requests~~  
22 ~~costing of service credit between January 1, 2001, and December~~  
23 ~~31, 2003, may, instead of making those contributions, make the~~  
24 ~~payment calculated under this article as it read on December 31,~~  
25 ~~2000, which payment shall be made in the manner described in~~  
26 ~~Section 21050.~~

27 (c) The public service shall not include military service (1) in  
28 any period for which credit is otherwise given under this article  
29 or Article 4 (commencing with Section 20990) or (2) to the  
30 extent that total credit under this section would exceed four  
31 years.

32 (d) ~~Notwithstanding Section 21034, a retired person may~~  
33 ~~select which of two or more periods of service entitles him or her~~  
34 ~~to receive public service under this section.~~

35 (e) ~~This section shall apply to a retired person only if he or she~~  
36 ~~retired immediately following service as a local member,~~  
37 ~~pursuant to this part, and before the effective date of the election~~  
38 ~~by his or her employer to be subject to Section 21024.~~

39 (f)

(e) The retirement allowance of a retired person who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the effective date of the election.

(g)

(f) This section ~~shall~~ *does* not apply to any contracting agency nor to the employees of any contracting agency until the agency has elected to be subject to Section 21024 and elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after January 1, 1988, by express provision in the contract making the contracting agency subject to both Section 21024 and this section. The amendments to this section made during the second year of the 1999–2000 Regular Session shall apply to contracts subject to this section on January 1, 2001. *The amendments to this section made during the first year of the 2005–06 Regular Session shall apply to contracts subject to this section on January 1, 2006.*

SEC. 16. Section 21029 of the Government Code is amended to read:

21029. (a) “Public service” with respect to a state member or a school member or with respect to a retired former state employee or a retired former school employee, who retired on or after December 31, 1981, also means active service, prior to entering this system as a state member or as a school member, of not less than one year in the Armed Forces of the United States, or, active service, prior to entering this system as a state or school member, of not less than one year in the Merchant Marine of the United States prior to January 1, 1950. Public service credit shall not be granted if the service described above terminated with a discharge under dishonorable conditions. The public service credit to be granted for that service shall be on the basis of one year of credit for each year of credited state service; ~~but shall not exceed a total of four years of public service credit regardless of the number of years of either that service or subsequent state service.~~ A state member or a school member or a retired former state employee or a retired former school employee electing to receive a credit for that public service shall have been credited with at least one year of state service on the date of election or the date of retirement.

(b) An election by a state member or a school member with respect to public service under this section may be made only while the member is in state, university, or school employment, and a retired former employee shall have retired immediately following service as a state member or as a school member. The retirement allowance of a retired former state employee or a retired former school employee, who elects to receive public service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election. For the purposes of this section, a member as described in subdivision (d) of Section 20776, shall also mean a former state employee or a former school employee, who retired on or after December 31, 1981.

(c) A member or retired former employee who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

(d) The board has no duty to locate or notify any eligible former member who is currently retired or to provide the name or address of any such retired person, agency, or entity for the purpose of notifying those persons.

SEC. 17. Section 21029.5 is added to the Government Code, to read:

21029.5. (a) "Public service" with respect to a state member also means all periods of satisfactory service, as determined by the Military Department, prior to entering into this system as a state member, in the California National Guard, the State Military Reserve, or the Naval Militia. Public service credit may not be granted if the service described above terminated with a discharge under dishonorable conditions.

(b) A member who elects to become subject to this section shall make the contributions as specified in Sections 21050 and 21052.

SEC. 18. Section 21117 of the Government Code is amended to read:

21117. A state miscellaneous member or industrial member, other than a university member *or a military member*, shall be partially retired for service upon his or her written application to the board if he or she has elected to participate in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6, provided he or she is credited

with (a) 20 years of state service and is either in (1) the First Tier plan with an attained age of 50 years or (2) the Second Tier plan with an attained age of 55 years or (b) the necessary years of service with the necessary attained age for retirement under the First Tier or the Second Tier and the sum of his or her age, when added to his or her service, equals or exceeds 65 years.

SEC. 19. Section 31649.5 of the Government Code is amended to read:

31649.5. (a) Notwithstanding Section 31649, any member who resigned, or obtained a leave of absence, to enter and did enter the armed forces of the United States on a voluntary or involuntary basis and returned to county service within one year after separation therefrom, under honorable conditions, shall receive credit for service and prior service for all or any part of his or her military service, if, before retirement from the county, he or she contributes what he or she would have paid to the fund based on his or her compensation earnable pursuant to Section 31461 at the time he or she resigned or received the leave of absence, together with regular interest thereon, ~~and if, when he or she contributes, the military service is not a basis for present or future military retirement pay.~~

(b) This section ~~shall~~ is not be operative in any county until the board of supervisors so orders.

SEC. 20. Section 215 of the Military and Veterans Code is amended to read:

215. (a) For all purposes under this code, commissioned officers, warrant officers and enlisted men and women of the California National Guard, California Air National Guard and California National Guard Reserve who have heretofore or hereafter performed service in the United States Army, United States Air Force, United States Navy, or any reserve component thereof shall be entitled to credit for time so served as if that service had been rendered in the state forces. Service in the state forces shall include all full-time active duty *and any satisfactory part-time duty* performed heretofore or hereafter either as an enlisted man or woman, warrant officer or commissioned officer pursuant to any prior or present section or sections or provisions of this code. Federal law notwithstanding, in computing state service for retirement with pay under this authority, ~~only~~ full-time active service *and any satisfactory part-time duty or*

1 service with the armed forces of the United States or any reserve  
2 component thereof shall be considered.

3 (b) *The Military Department shall determine what*  
4 *constitutions "satisfactory part-time" duty or service for the*  
5 *purposes of this section.*

6 SEC. 21. Section 228 of the Military and Veterans Code is  
7 amended to read:

8 228. (a) Any commissioned or warrant officer of the  
9 California National Guard who has served 20 years in the active  
10 service of the state may, on application, in the discretion of the  
11 Governor, be retired. Service in the United States Army, United  
12 States Air Force, United States Navy, or any reserve component  
13 thereof is considered state service in computing length of state  
14 service for the purposes of this section.

15 (b) Upon application made within one year of retirement, the  
16 officer may, in the discretion of the Governor, be granted an  
17 honorary advancement to the next grade above that held on the  
18 date of application for retirement. The Adjutant General shall  
19 adopt regulations governing the application procedure,  
20 qualifications required, and rights and privileges in connection  
21 with honorary post-retirement promotions under this subdivision.  
22 If recalled to either state or federal active service, a person  
23 honorarily promoted under this subdivision shall return to duty in  
24 that grade specified by federal law or regulations applicable to  
25 the person.

26 (c) Commissioned and warrant officers on active duty with the  
27 office of the Adjutant General pursuant to Section 167 who are  
28 not members of the Public Employees' Retirement System and  
29 who have been on active duty with the office of the Adjutant  
30 General for a total of 10 years shall, on application, be retired in  
31 accordance with the federal law and regulations which on the  
32 date of application govern the retirement of commissioned and  
33 warrant officers of the reserve components of the Army of the  
34 United States on extended active duty. ~~However, inactive service~~  
35 ~~in a reserve component of the armed forces of the United States~~  
36 ~~shall not be considered in computing the total state service for~~  
37 ~~retirement purposes.~~ Retirement from state active duty with the  
38 office of the Adjutant General does not prohibit a person from  
39 active service in the California National Guard. In these cases,

1 the length of service shall be computed as provided in this  
2 section and Section 215.

3 SEC. 22. Section 256 of the Military and Veterans Code is  
4 amended to read:

5 256. (a) Any enlisted member of the California National  
6 Guard who has served 20 years in the active service of the state  
7 may, on application, in the discretion of the Governor, be retired.  
8 Service in the United States Army, United States Air Force,  
9 United States Navy, or any reserve component thereof shall be  
10 considered as state service in computing length of state service  
11 for the purposes of this section.

12 (b) Upon application made within one year of retirement, the  
13 person may, in the discretion of the Governor, be granted an  
14 honorary advancement to the next rank above that held on the  
15 date of application for retirement. The Adjutant General shall  
16 adopt regulations governing the application procedure,  
17 qualifications required, and rights and privileges in connection  
18 with honorary post-retirement promotions. If recalled to either  
19 state or federal active service, a person honorarily promoted  
20 under this subdivision shall return to duty in that rank specified  
21 by federal law or regulations applicable to the person.

22 (c) An enlisted member on active duty with the office of the  
23 Adjutant General pursuant to Section 167 who is not a member  
24 of the Public Employees' Retirement System and who has been  
25 on active duty with the office of the Adjutant General for a total  
26 of 10 years shall, on application, be retired in accordance with  
27 the federal law and regulations which on the date of application  
28 govern the retirement of enlisted members of the reserve  
29 components of the Army of the United States on extended active  
30 duty. ~~However, inactive service in a reserve component of the~~  
31 ~~armed forces of the United States shall not be considered in~~  
32 ~~computing the total state service for retirement purposes.~~ In  
33 these cases, the length of service shall be computed as provided  
34 in this section and Section 215.

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